

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**ERIC DEBERRY,**

**Petitioner,**

**- against -**

**ELLIOT SPITZER, New York State Attorney  
General, and DALE ARTIS, Superintendent,**

**Respondent.**  
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**ORDER**

**05 CV 5286 (NG)(RML)**

**GERSHON, United States District Judge:**

The Report and Recommendation ("R&R") of Magistrate Judge Robert M. Levy, dated February 17, 2011, to which no objections have been filed, has been reviewed for clear error. Having found no such error and noting that Judge Levy has fully dealt with every issue raised, the R&R is adopted in its entirety, and the petition for writ of habeas corpus is DENIED in its entirety.

Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253.

**SO ORDERED,**

**/s/NG  
NINA GERSHON  
United States District Judge**

Dated: March 29, 2011  
Brooklyn, New York